

Appendix E

Attachment B
to
Warranty Deed – Monarch Recreational Parcel

**ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF
RESTRICTIVE COVENANTS**

This Environmental Protection Easement and Declaration of Restrictive Covenants (“Environmental Easement”) is reserved and excluded from the conveyance made by the “Warranty Deed – Monarch Recreational Parcel” to which this “Attachment B” is attached and made a part thereof, this ____ day of _____, 2005, by and between Greene Tree, Incorporated (“Greene Tree”), the grantor, and Monarch Greenback, LLC (“Monarch”), the grantee;

WHEREAS, Monarch is the owner of a parcel of land located in Elmore County, Idaho, more particularly described on “Attachment A” hereto and made a part hereof (“Monarch Recreational Parcel”), which is part of the Talache Mine Tailings Site (“Site”), located near Atlanta, Idaho; and

WHEREAS, the EPA has caused a “Final Engineering Evaluation/ Cost Analysis Report, Depositional Area, Talache Mine Tailings Site, Atlanta, Idaho,” December 2000 (“EE/CA”) to be prepared regarding the Site; and

WHEREAS, EPA has entered into an Administrative Order on Consent (“AOC”), dated June 17, 2002, among EPA, Monarch and the Doe Run Resource Corporation, regarding that portion of the Site determined by the EPA to be the “Depositional Area” (the areas of the Site where tailings released during the May, 1997 failure of the tailings impoundments came to be located) to be subject to certain removal and post-removal measures (the “Removal Action”); and

WHEREAS, Greene Tree, Monarch, and others have entered into a Multi-Party Settlement Agreement Regarding Greene Tree Damages and Claims with respect to claims among the parties thereto relating to the Site (the “Settlement Agreement”); and

WHEREAS, Monarch and Doe Run have conducted the Removal Action in the Depositional Area; and

WHEREAS, EPA is an intended third-party beneficiary of this Environmental Easement; and

WHEREAS, the parties hereto have agreed: (1) Monarch, its successors and assigns, shall retain a permanent right of access over Monarch Recreational Parcel for purposes of implementing, facilitating, monitoring, and if necessary, continued implementation of the Removal Action; and (2) to impose on Monarch Recreational Parcel restrictions on use as covenants that will run with the land for the purpose of protecting human health and the environment by precluding residential development and limiting use of Monarch Recreational Parcel to recreational purposes, as defined in this Easement; and

WHEREAS, Greene Tree wishes to cooperate fully in good faith with Monarch and the EPA in the implementation of the Removal Action at the Site;

NOW, THEREFORE, in consideration of the foregoing, the parties to this Easement mutually agree as follows:

1. Reservation and Grant: Monarch reserves from the transaction memorialized by that certain “Warranty Deed – Monarch Recreational Parcel” sufficient rights so that the Monarch Recreational Parcel shall be subject to the restrictions on use set forth below, and does reserve to Monarch: (1) the perpetual right to enforce said use restrictions; and (2) an environmental protection easement of the

nature and character and for the purposes set forth in Section 5 hereof with respect to Monarch Recreational Parcel.

2. Purpose: It is the purpose of this instrument to: (a) reserve to Monarch real property rights, which will run with the land, to facilitate the remediation of past environmental contamination; (b) protect human health and the environment by reducing the risk of exposure to contaminants; and (c) impose restrictions and reservations that will ensure that the Monarch Recreational Parcel will not be used in a manner that will cause a failure of the Removal Action or will be contrary to the uses for such property as set forth in the Settlement Agreement.

3. Restrictions on use: Monarch, on behalf of itself, its successors and assigns, reserves such rights from that certain "Warranty Deed – Monarch Recreational Parcel" so that the use of Monarch Recreational Parcel shall be restricted as follows:

- a. Monarch Recreational Parcel shall not be used for residential purposes
- b. No action shall be taken or suffered on Monarch Recreational Parcel that may expose contaminated soil to the environment in levels exceeding the Recreational PRG for arsenic, which shall have the same meaning as described in the EE/CA and which is 360 milligrams per kilogram, or as may otherwise approved by EPA subsequent to the EPA determining that the Removal Action is complete.
- c. Monarch Recreational Parcel shall not be used to maintain and/or construct groundwater wells from groundwater sources that exceed the drinking water maximum contaminant level for arsenic.
- e. At least 30 days prior to any conveyance of a title interest in Monarch Recreational Parcel, the owner of Monarch Recreational Parcel shall give written notice to the successor grantee of the Environmental Easement and of the access obligations and use restrictions

therein and shall give written notice to EPA of the proposed conveyance, including the name and address of the grantee, and the date on which a copy of the Environmental Easement was given to the successor grantee. The parties intend these restrictions to run with the land and to be binding upon the Greene Tree and its successors, transferees, and assigns for the benefit of Monarch, its successors and assigns, and EPA, its successor and assigns. Either Monarch and/or EPA, as a third party beneficiary, shall be allowed to enforce the restrictive covenants created by this Environmental Easement.

4. Modification of restrictions: The above restrictions may be modified, or terminated in whole or in part, in writing, by EPA. If requested by Greene Tree and EPA, Monarch, its successors and assigns, shall execute such modification or termination in recordable form.

5. Environmental Protection Easement: Monarch, its successors and assigns, hereby reserves a nonexclusive, perpetual easement to enter on Monarch Recreational Parcel at reasonable times and in a reasonable manner, for purposes of:

- a. implementing the Removal Action as set forth in the AOC or as set forth in such other administrative documents that describe the Removal Action;
- b. verifying any data or information submitted to the EPA;
- c. verifying that no action is being taken on Monarch Recreational Parcel in violation of the terms of this Environmental Easement or of any federal or state environmental laws or regulations;
- d. monitoring the Removal Action and conducting investigations relating to contamination on or near Monarch Recreational Parcel including, without

limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;

- e. conducting periodic reviews of the Removal Action including but not limited to, reviews required by applicable statutes and/or regulations;
- f. assessing the need for, planning, or implementing additional response actions at or near the Site;
- g. assessing compliance with the Removal Action, including but not limited to, implementation of the "Talache Mine Tailings - Tailings Piles and Depositional Areas Removal Action - Post-Removal Site Control Plan, October 2004; and
- h. determining whether the Monarch Recreational Parcel is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to the AOC.

6. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under the Comprehensive Environmental Compensation and Liability Act of 1980, as amended ("CERCLA"), or other federal law.

7. No Public Access and Use: No right of access or use by the general public to any portion of Monarch Recreational Parcel is conveyed by this instrument.

8. Notice requirement: Greene Tree agrees to include in any instrument conveying any interest in any portion of Monarch Recreational Parcel, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, DATED _____, 2005, RECORDED IN THE PUBLIC LAND RECORDS ON _____, 2005, IN BOOK __,

**PAGE __, IN FAVOR OF MONARCH GREENBACK, LLC,, AND
ENFORCEABLE BY, THE UNITED STATES OF AMERICA AND
MONARCH GREENBACK, LLC, OF BOISE, IDAHO, AND THEIR
SUCCESSORS AND ASSIGNS.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Greene Tree must provide Monarch with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

9. Enforcement: Monarch and/or EPA, as a third party beneficiary, shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Enforcement of the terms of this instrument shall be at the discretion of Monarch and/or EPA, any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by Monarch and/or EPA of such term or of any subsequent breach of the same of any other term, or of any of the rights of Monarch and/or EPA under this instrument.

10. Third Party Beneficiary: Green Tree on behalf of itself and its successors, transferees, and assigns, and Monarch on behalf of itself and its successors, transferees, and assigns, hereby agree that EPA shall be a third party beneficiary of all the rights reserved to Monarch in this instrument.

11. Damages: Monarch shall be entitled to recover damages for violations of the terms of this instrument, or for any injury committed by Greene Tree, its successors or assigns, to the Removal Action, to the public or to the environment protected by this instrument.

12. Waiver of certain defenses: Greene Tree hereby waives any defense of laches, estoppel, or prescription.

13. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Greene Tree:

Greene Tree, Incorporated, a Nevada corporation
129 Woodside Drive
Provo, Utah 84604-4423

To Monarch:

Monarch Greenback, LLC
1617 Claremont Drive
Boise, Idaho 83702 and

Gary D. Babbitt, Esq.
Hawley Troxell Ennis & Hawley
877 Main Street, Suite 1000
Boise, Idaho 83701

To U.S. E.P.A.

Ted Yackulic
Office of Regional Counsel
U.S. EPA, ORC-158
1200 Sixth Avenue
Seattle, Washington 98101

14. General provisions:

a. Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are not applicable federal laws, by the law of the State of Idaho.

b. Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d. Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e. No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Greene Tree's title in any respect.

f. Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The rights of Greene Tree and Monarch under this instrument are freely assignable, subject to the notice provisions hereof; however, if Monarch or its successors and assigns do not or cannot enforce the limitations contained herein upon the Monarch Recreation Parcel, then Monarch's right herein shall be assigned to the Doe Run Resources Corporation, but not before such inability or failure to enforce.

g. Termination of Rights and Obligations: A party's rights and obligations under this instrument terminate upon transfer of the party's interest in the easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

h. Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or

interpretation.

i. Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF, Monarch has caused this Environmental Easement to be signed in its name.

Executed this ____ day of _____, 2004.

By: _____

Its: _____

STATE OF _____)

COUNTY OF _____)

On this ____ day of _____, 2005, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____, known to be the _____ of Monarch Greenback, LLC, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Notary Public in and for the State of _____

My commission expires: _____

Attachment B
to
Warranty Deed – Monarch Residential Parcel

**ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF
RESTRICTIVE COVENANTS**
Monarch Residential Parcel

This Environmental Protection Easement and Declaration of Restrictive Covenants (“Environmental Easement”) is reserved and excluded from the conveyance made by the “Warranty Deed – Monarch Residential Parcel” to which this “Attachment B” is attached and made a part thereof this ____ day of _____, 2005, by and between Greene Tree, Incorporated (“Greene Tree”), the grantor, and Monarch Greenback, LLC (“Monarch”), the grantee;

WHEREAS, Monarch is the owner of a parcel of land located in Elmore County, Idaho, more particularly described on “Attachment A” hereto and made a part hereof (the “Monarch Residential Parcel”), which is part of the Talache Mine Tailings Site (“Site”), located near Atlanta, Idaho; and

WHEREAS, the EPA has caused a “Final Engineering Evaluation/ Cost Analysis Report, Depositional Area, Talache Mine Tailings Site, Atlanta, Idaho,” December 2000 (“EE/CA”) to be prepared regarding the Site; and

WHEREAS, EPA has entered into an Administrative Order on Consent (“AOC”), dated June 17, 2002, among EPA, Monarch and the Doe Run Resource Corporation, regarding that portion of the Site determined by the EPA to be the “Depositional Area” (the areas of the Site where tailings released during the May, 1997 failure of the tailings impoundments came to be located) to be subject to certain removal and post-removal measures (the “Removal Action”); and

WHEREAS, Greene Tree, Monarch, and others have entered into a Multi-Party Settlement Agreement, dated effective April 17, 2002, Regarding Greene Tree Damages and Claims with respect to claims among the parties thereto relating to the Site (the "Settlement Agreement"); and

WHEREAS, Monarch and Doe Run have conducted the Removal Action in the Depositional Area; and

WHEREAS, EPA is an intended third-party beneficiary of this Environmental Easement; and

WHEREAS, the parties hereto have agreed: (1) Monarch, its successors and assigns, shall retain a permanent right of access over the Monarch Residential Parcel for purposes of implementing, facilitating, monitoring, and if necessary, continued implementation of the Removal Action; and (2) to impose on the Monarch Residential Parcel restrictions on use as covenants that will run with the land for the purpose of protecting human health and the environment by limiting certain specified uses of the Monarch Residential Parcel, as defined in this Easement; and

WHEREAS, Greene Tree wishes to cooperate fully in good faith with Monarch and the EPA in the implementation of the Removal Action at the Site;

NOW, THEREFORE, in consideration of the foregoing, the parties to this Easement mutually agree as follows:

1. Reservation and Grant: Monarch reserves from the transaction memorialized by that certain "Warranty Deed – Monarch Residential Parcel" sufficient rights so that the Monarch Residential Parcel shall be subject to the restrictions on use set forth below, and does reserve to Monarch: (1) the perpetual right to enforce said use restrictions; and (2) an environmental protection easement of the nature and character and for the purposes set forth in Section 5 hereof with respect to Monarch Residential Parcel.

2. Purpose: It is the purpose of this instrument to: (a) reserve to Monarch real property rights, which will run with the land, to facilitate the remediation of past environmental contamination; (b) protect human health and the environment by reducing the risk of exposure to contaminants; and (c) impose restrictions and reservations that will ensure that Monarch Residential Parcel will not be used in a manner that will cause a failure of the Removal Action or will be contrary to the uses for such property as set forth in the Settlement Agreement.

3. Restrictions on use: Monarch, on behalf of itself, its successors and assigns, reserves such rights from that certain "Warranty Deed – Monarch Residential Parcel" so that the use of Monarch Residential Parcel shall be restricted as follows:

a. Monarch Residential Parcel shall not be used to maintain and/or construct groundwater wells from groundwater sources that exceed the drinking water maximum contaminant level for arsenic.

b. At least 30 days prior to any conveyance of a title interest in Monarch Residential Parcel, the owner of Monarch Residential Parcel shall give written notice to the successor grantee of the Environmental Easement and of the access obligations and use restrictions therein and shall give written notice to EPA of the proposed conveyance, including the name and address of the grantee, and the date on which a copy of the Environmental Easement was given to the successor grantee. The parties intend these restrictions to run with the land and to be binding upon the Greene Tree and its successors, transferees, and assigns for the benefit of Monarch, its successors and assigns, and EPA, its successor and assigns. Either Monarch and/or EPA, as third party beneficiary, shall be allowed to enforce the restrictive covenants created by this Environmental Easement.

4. Modification of restrictions: The above restrictions may be modified, or terminated in whole or in part, in writing, by EPA. If requested by Greene Tree and EPA, Monarch, its successors and assigns, shall execute such modification or termination in recordable form.

5. Environmental Protection Easement: Monarch, its successors and assigns, hereby reserves a nonexclusive, perpetual easement to enter on Monarch Residential Parcel at reasonable times and in a reasonable manner, for purposes of:

- a. implementing the Removal Action as set forth in the AOC or as set forth in such other administrative documents that describe the Removal Action;
- b. verifying any data or information submitted to the EPA;
- c. verifying that no action is being taken on Monarch Residential Parcel in violation of the terms of this Environmental Easement or of any federal or state environmental laws or regulations;
- d. monitoring the Removal Action and conducting investigations relating to contamination on or near Monarch Residential Parcel including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e. conducting periodic reviews of the Removal Action including but not limited to, reviews required by applicable statutes and/or regulations;
- f. assessing the need for, planning, or implementing additional response actions at or near the Site;
- g. assessing compliance with the Removal Action, including but not limited to, implementation of the "Talache Mine Tailings - Tailings Piles and

Depositional Areas Removal Action – Post-Removal Site Control Plan,
October 2004; and

- h. determining whether the Monarch Residential Parcel is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to the AOC.

6. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's authority to take response actions under the Comprehensive Environmental Compensation and Liability Act of 1980, as amended ("CERCLA"), or other federal law.

7. No Public Access and Use: No right of access or use by the general public to any portion of Monarch Residential Parcel is conveyed by this instrument.

8. Notice requirement: Greene Tree agrees to include in any instrument conveying any interest in any portion of Monarch Residential Parcel, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, DATED _____, 2005, RECORDED IN THE PUBLIC LAND RECORDS ON _____, 2005, IN BOOK __, PAGE __, IN FAVOR OF, AND ENFORCEABLE BY, THE UNITED STATES OF AMERICA AND MONARCH GREENBACK, LLC, OF BOISE, IDAHO, AND THEIR SUCCESSORS AND ASSIGNS.

Within thirty (30) days of the date any such instrument of conveyance is executed, Greene Tree must provide Monarch with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

9. Enforcement: Monarch and/or EPA, as a third party beneficiary, shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. All remedies available hereunder shall be in addition to any and all other remedies at law or in

equity, including CERCLA. Enforcement of the terms of this instrument shall be at the discretion of Monarch and/or EPA, any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by Monarch and/or EPA of such term or of any subsequent breach of the same of any other term, or of any of the rights of Monarch and/or EPA under this instrument.

10. Third Party Beneficiary: Green Tree on behalf of itself and its successors, transferees, and assigns, and Monarch on behalf of itself and its successors, transferees, and assigns, hereby agree that EPA shall be a third party beneficiary of all the rights reserved to Monarch in this instrument.

11. Damages: Monarch shall be entitled to recover damages for violations of the terms of this instrument, or for any injury committed by Greene Tree, its successors or assigns, to the Removal Action, to the public or to the environment protected by this instrument.

12. Waiver of certain defenses: Greene Tree hereby waives any defense of laches, estoppel, or prescription.

13. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Greene Tree:

Greene Tree, Incorporated, a Nevada corporation
129 Woodside Drive
Provo, Utah 84604-4423

To Monarch:

Monarch Greenback, LLC
1617 Claremont Drive
Boise, Idaho 83702 and

Gary D. Babbitt, Esq.
Hawley Troxell Ennis & Hawley
877 Main Street, Suite 1000
Boise, Idaho 83701

To U.S. E.P.A.

Ted Yackulic
Office of Regional Counsel
U.S. EPA, ORC-158
1200 Sixth Avenue
Seattle, Washington 98101

14. General provisions:

a. Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are not applicable federal laws, by the law of the State of Idaho.

b. Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d. Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e. No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Greene Tree's title in any respect.

f. Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The rights of Greene Tree and Monarch under this instrument are freely assignable, subject to the notice provisions hereof; however, if Monarch or its successors and assigns do not or cannot enforce the limitations contained herein upon the Monarch Residential Parcel, then Monarch's right herein shall be assigned to the Doe Run Resources Corporation, but not before such inability or failure to enforce.

g. Termination of Rights and Obligations: A party's rights and obligations under this instrument terminate upon transfer of the party's interest in the easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

h. Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i. Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF, Greene Tree has caused this Environmental Easement to be signed in its name.

Executed this ____ day of _____, 2004

By: _____

Its: _____

STATE OF _____)

COUNTY OF _____)

On this ____ day of _____, 2004, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____, known to be the _____ of Monarch Greenback, LLC, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Notary Public in and for the State of _____

My commission expires: _____